

meeting we were going to be adding 10 additional judges on top of the 9 that we had in December and we have 10 new judges who started their Academy just yesterday. Presiding ALJ Lillian Waters introduce the new judges.

Vice Chair Plescia and the other Board members welcomed the new judges.

Chief ALJ/Acting Executive Director Roldan added we are all appreciative to have them on board and we are obviously dealing with historic times in terms of a very high unemployment rate in the State of California. They are part of our effort to address the needs of the public so we are looking forward to their doing the training and getting back to their respective offices and integrating into the CUIAB workforce.

6. Unfinished & New Business

2009/10 Budget, actions to comply with Governor's Executive Order S-01-10

Budget Officer Renee Erwin reported we have two items we will be covering – the current year 2009-10 Budget review and update with projections through the end of the fiscal year and the second item is Executive Order S-01-10 which is the 5% workforce cap plan.

The first item is Attachment A and as of August 11, 2009, that allocated a \$98 million to the various branches. Of that budget \$6.8 million was kept in reserve to cover emergency and unforeseen items for a total of \$105 million. Our projections through the end of the year estimate another \$2.9 million in earnings with benefits associated with that will bring it to a total of \$4 million in additional earnings. Our estimate of expenditures through the end of the year is based on the first six months of actual which we have July through December and then an estimate of those remaining expenditures for January through June. We are expected to spend approximately \$82.7 million. Some unforeseen items we need to make adjustments for are the October revise which came in with an \$11 million decrease in our resources. There is an overtime augmentation that the Board approved last month to augment for December and January. The \$1.3 million is a total for December-January through the end of the fiscal year so it would be approximately another \$1 million that we would ask the Board to augment the branches to fund them through the end of the fiscal year.

Pending Position Actions – Cost Center managers were surveyed as to what pending position actions they had and any hires or promotions they identified they had a need for (Attachment B). In summary, it is a permanent positions request for 57 new hires, 7 promotions, 44 refills that have separated and 27 permanent intermittent (PI) conversions to permanent full time. There are PI or temporary help position action requests for 29 new hires and 35 refills so in all we have 199 position actions being requested. Of those there are 23 ALJs and 39 staff positions in the operational branches and 17 new hires in the service branches. We prioritized these requests and the highest priority is a total of 86 positions, a

total of approximately \$900,000 in costs through the end of the fiscal year. The second priority is 27 position actions but those have no costs because they are the conversions from PI to permanent. The lowest priority is new hires for both permanent and temporary help with 86 positions at one point for \$1.4 million.

Proposed Facilities (Attachment C) – Mr. Robert Silva reported the first section in green is the 13 projects on new spaces and relocation that we are going to go forward this fiscal year. The total cost for Tenant Improvements (TI) is \$1.9 million. On Projects on Hold we are still waiting for specifics with regard to Santa Ana, the Van Nuys area, Chula vista and Salinas. The bottom section is projects which we cancelled. We have office space we are borrowing from the Department of Industrial Relations in various spaces. Some of the reasons why these projects were cancelled and some of the projects are on hold is because if we can continue to use some space for free we will do that.

Vice Chair Plescia suggested making the Presiding Judges aware of any cancelled project.

Chief ALJ/Acting Executive Director Roldan replied it should be noted there will be potential TI expenses to mitigate the lost space. For example in Inglewood, were are converting a file room from a physical file room to electronically stored files and that space could then be converted to a hearing room or office space. The net result will be that they gain additional office space or physical space which is deemed to be a better expenditure.

Member Montañez stated she visited the Los Angeles Office and they were holding floating mass calendar days and did not have enough hearing rooms. You can see all the people were lined up inside the waiting room and outside. Get the projects going as fast as possible. She showed up unexpectedly and everybody was working hard.

Member Figueroa added every time she goes to one of the offices everybody is jammed and working hard so we need the space but at the same time we don't want to get involved in an agreement for space we may not need five years from now when the unemployment situation improves.

Ms. Rita Thompson reported that we are moving forward with the Murrieta project and adding 3 hearing rooms.

Mr. Silva, referring to Attachment A, stated that on Team Calendar Hearing Room Rentals reported that Member Figueroa made reference to utilizing spaces out on long-term commitments. They are going to try this fiscal year to do that and try to take 5 different locations and have large team calendars and rent a space out so that we can accommodate our parties in a few day period and get a lot of decisions done at a very little cost to CUIAB. That is an additional \$17,000 in unforeseen adjustments to the current budget.

Ms. Erwin reported to recap on facilities we have Priority 1 items budgeted and the project on hold, Priority 2 budgeted and team calendar hearing room rental for the statewide team calendar project. Then carrying on we have operating expense and equipment proposed technology projects; we have digital imaging where we are looking to scan to paperless all of the closed files which will cost us approximately \$50,000 per location for the vendor to do the scanning of those documents. The fast track offices that we have identified, Inland, Los Angeles, Orange County, Oxnard and San Jose for \$250,000 and then the hope is to finish up with the remaining 7 offices, Fresno, Inglewood, Pasadena, Oakland, Sacramento, San Diego and San Francisco for another \$350,000 before the end of the fiscal year. By doing this we free up space that the offices can utilize for staff or judges offices or even hearing rooms.

Ms. Erwin reported on the IP Telephony which will put us on a universal phone system where it will reduce the longest charges across the State.

Chief Information Officer Rafael Placencia explained the IP Telephony is actually running our phone system over the network. EDD is well on the way to doing that now. What we are doing is looking at basically duplicating exactly what is being done at EDD. The provider will come in and provide everything that we need to move towards that technology. Everything runs within that network which is no cost for long distance providing the same process we do to communicate with our computers. It is a totally separate network.

Ms. Erwin reported we are going to hold a Dragon Speak Academy by implementing statewide training session for all judges to learn the Dragon Speak which is voice to text dictation for \$100,000.

Member Richardson asked how many people does this cover the \$100,000.

Chief ALJ/Acting Executive Director Roldan replied it will cover all of the judges using Dragon Speak and all the PC liaisons and everyone that we want to receive advanced training.

Vice Chair Plescia questioned whether this also incorporates all the travel and per diem costs for certain offices, renting office space and audio and visual equipment.

Member Richardson asked if the \$100,000 covers all the 250 judges and the support staff.

Chief ALJ/Acting Executive Director Roldan replied affirmatively but not necessarily 250 judges because we do not compel the judges to use Dragon. The majority of the judges elected to use it but not every single judge has.

Ms. Erwin reported on the ALJ Office Mobility Pilot. She stated we are looking at piloting one office and providing all judges a laptop and air card so that they have access to perform their work wherever they're at that they are just limited to doing

their dictation in a hearing room or in their office especially for those offices where not all judges have an office. It will also give the HQ offices more flexibility in their scheduling. Those estimated cost of laptop is \$2500 and air card has an annual cost of \$600, about \$3100 for this test office comes to \$62,000.

Member Figueroa asked why we should buy them additional laptop and not just buy the air card. CIO Placencia responded that we do not have enough laptops. Not everyone has a laptop.

Ms. Erwin reported on the Hot Spot – Network Wireless Connection at \$15,000 per Site and there are 15 sites to 12 HQ offices plus 3 of the largest offsite locations.

CIO Placencia explained that the idea behind that is being able to connect without pretty much wireless. As soon as you get close to a Hot Spot it will connect, no need to plug it to the network.

Chief ALJ/Acting Executive Director Roldan stated that the 3rd floor Library has Hot Spot set up and will allow us to set up so quickly; the typing hub used it effectively the last few months to reduce the backlog.

Ms. Erwin reported on the Regional ALJ Training one for the northern offices which would possibly be held in San Francisco and one regional training in the south possibly the Los Angeles location. This is for \$20,000 and would cover facility, rental costs, any equipment rental audio visual charges in addition to mileage transportation and in both locations there would be one office that would be entitled to overnight per diem and hotel lodging and it would approximately \$10,000 for each location so \$20,000 per regional ALJ training. That brings our total expenditures to \$100,000 and an estimated available balance of \$9.2 million. The next fiscal year 2010-11 Budget Call Letters are scheduled to be released in the next week or 10 days and in that process we identify what the office needs are for the next fiscal year and we identify the highest priority items and in the past have been able to fund some of those items with current year's monies by advance so there are other things that will be coming up that will identify and recommend for funding that would bring our available balance down.

Ms. Erwin asked Chief Counsel Hilton if there are specific items that need approval of the Board or overall approve the plan.

Chief Counsel Hilton stated he Board should approve the overall budget presented today by Ms. Erwin.

The overall budget presented today was unanimously approved by the Board.

Ms. Erwin explained the Governor's 5% is a reduction to our 2010-11 budget only. We need to implement plans to achieve that we do not have a reduction in our budget this year.

Ms. Erwin reported in response to the Executive Order S-01-10 that requires a 5% workforce cap plan for all state agencies and the Budget Letter was released January 22, 2010 providing departments with the Directives on how we would go about instituting and planning this Executive Order requirement. Plans from each department are due by February 1st and we are to take immediate steps to implement by March 1 to begin achieving a 5% reduction in salary expenditures. The savings will be ongoing and the funding will be removed from our budget effective July 1, 2010, so it will impact the next fiscal year. The Budget Letter advises this reduction is to be achieved through either abolishing vacancies, attrition or layoffs. The Budget Letter is also specific that each department may not utilize savings in operating expenses. The savings are strictly required to come from salary savings. It also advises these are going to be preliminary targets and there is a possibility they will likely change as budgets are modified during spring and the revises come out. The submissions will be submitted each month beginning of the month to Department of Finance, DPA and Cabinet Secretaries. They will be reviewed to ensure that departments are in compliance and if for some reason they are not approved then the department will be required to submit a revised plan within 2 business days following a denial.

Attachment E is an overview of basically the requirements for CUIAB. Our current year budget authority, according to the Governor's budget, is 810 positions for a total of \$53.4 million. For 2010 our positions are reduced slightly to \$756.4 and salaries are estimated at \$54.4 million. So our 5% reduction for current year we would need to achieve for the 4 months March through June a reduction of 13.5 positions estimated at almost \$900,000. For 2010-11 it is estimated that we would need to reduce expenditures by 37.8 positions and \$2.7 million. On the next Attachment F we track our attritions over the last 3.5 years and those attritions are both in retirement and separations. The first part identifies the 4 fiscal years with a special note that for the current year 2009-10 we had proved December 6 months so we just multiply that by 2 to get an entire fiscal year but we have broken it down in different categories for both AO and FO ALJs, AO and FO which AO is appellate and FO is field support and the service branches, Admin Services, Executive and IT. Our attritions have continued to grow each fiscal year and what we have come up with is an average of 54 attritions over this 4-year period. The current year is expected to be about 11% attrition rate and 78 retirements and separations. Ms. Erwin did some separate research and of those attritions what we have identified is approximately 38 or 72% are permanent and 28% are temp help positions. Going back to Attachment E our solutions are that based on our 4-year trends 54 positions could be eliminated through attritions at \$3.8 million salary savings. If you look at how it would play out over the duration of fiscal year our 2009-10 reductions could be achieved in 3 months and our 2010-11 reductions could be achieved in about 8.5 months. As of January 1 we have authorized 1,050 positions and have filled 665 positions and we have an estimated about 385 vacancies. This is the plan that we will be submitting on behalf of CUIAB.

Member Figueroa asked what happens if we have to start hiring more temporary typists.

Ms. Erwin responded we still have 385 total vacant positions and of those we only have to reduce current year 13, next year 37 so we will still have more vacancies.

Vice Chair Plescia asked about the numbers for retirements. Deputy Director Pam Boston replied we have 173 employees who could retire today and out of 173, 85 are ALJs and 11 are PJs.

Member Richardson asked what if they come back as retired annuitants, would that affect our calculations or reporting to the Governor's office? Deputy Director Boston responded they would come back as retired annuitants in temporary help.

Member Montanez asked if these are state general fund savings. Ms. Erwin explained that these are all of our positions in all funding sources.

Vice Chair Plescia commented this will help us reach for what the Governor asks for but the Chair and the Deputy Director of EDD are working on a letter asking for an exemption.

Member Montanez asked what the general fund savings is. Ms. Erwin replied it would be less than 1% or \$13,000.

Member Montanez asked whether we know how much we would lose if we got rid of those positions and how much federal funding would we potentially lose?

Member Richardson added we do a calculation in terms of hiring staff and ALJ as to how much money that brings in. Ms. Erwin stated we do a calculation on what it cost us for a position vs. if they are with operational branch, what earnings they generate, which we would associate with the positions that are abolished or attritions not filled. This is based on just an average of all our positions what the average salary is although ALJs salary is much higher than the \$71,000 per year and the support staff are much less, mid range of all of our positions.

Vice Chair Plescia asked if this would help us meet what the Governor is requesting in the letter and clarified that we have to report every month afterwards. Ms. Erwin responded each month in advance we must report what positions we are identifying to achieve the 5% reduction. Each month we have to identify about 4 positions and we are in good shape. Obviously, we can just hold back and use any of our vacant positions.

The Board approved the reduction plan with 4 ayes except for Member Montanez who voted nay.

Chief ALJ/Acting Executive Director Roldan reported on the 406(b) process. At this point, he had discussions with a number of more experienced persons in the office including Elena Gonzales who presides over our complaint process. He also had discussions with some Board members separately for some advice on historical perspective on this. What is coming into focus is the idea of having the

406(b) process ultimately channeled through the complaint process but it makes a lot of sense to have the ALJ who is responsible for the complaint process apparently exist somewhat separated by parallel from the person who is doing the 406(b) process because of the need for pulling these cases randomly as opposed to claims that were generated. Somebody physically writes a letter or calls us and says I have an issue with how an ALJ handled the case and the 406(b) process by its definition has to be a random selection of cases and having that combined in one person can create an issue in terms of how randomly the cases are selected. The proposal he is developing is going to relate the two persons in their operations. We do not want them to be operating separately because during the random review process you become aware of performance issues with the ALJs and there should be communication between the person who handled the present complaint process and the person presiding over the 406(b) process. There are issues about making that one person and that is the latest in terms of our development of the program and he will have the full update of the final proposal by the February meeting.

Member Montanez commented sometimes she sees decisions that the appellate judge would make a comment on how the field judge may have misinterpreted a statute or not asked certain questions on how they run hearings. Would comments like that then go to disposition because she sees those comments at times and as a result maybe takes a closer look at just everything.

Chief ALJ/Acting Executive Director responded the current mechanism of any concerns of the Board members relating to field judges performance should be referred to ALJ Elena Gonzales and that is our formal complaint process which has been in place for some time now.

Member Richardson stated 406(b) provides the cases not be appealed so if it came up through the appellate process it would be not eligible for 406(b) review. So they are unappealed cases. They are two different issues because one has to do with legal due process and the other has to do a little bit more of judge's demeanor sometimes. A claimant or employer who was denied due process because of the judge's demeanor we can review those on the natural through the appellate process and they can be reviewed by Elena Gonzales if they come to her through the complaint process. But the 406(b) process is for unappealed cases so that is why it is really important that they be plucked at random and reviewed at random and let there be no bias or preconceived notion about the case before it is reviewed.

Chief ALJ/Acting Executive Director Roldan agreed and he is incorporating that approach into the proposal that he is developing for the Board.

7. Public Comment

There was no public comment.

8. Closed Session:

The Board went into closed session. No votes were reported.

Adjournment